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09/590,002

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Lawrence L. Kunz et al.

Examiner: Samuel Barts

Serial No.: 09/590,002

Group Art Unit: 1621

Filed: June 8, 2000

Docket: 295.007US4

Title: THERAPEUTIC INHIBITOR OF VASCULAR SMOOTH MUSCLE CELLS

TERMINAL DISCLAIMER

Commissioner for Patents
Washington, D.C. 20231

I, Janet E. Embretson, am the attorney of record for the above-identified patent application as evidenced by the Power of Attorney filed in the present application on June 8, 2000. I am making this petition on behalf of NeoRx Corporation, the assignee of the present invention. As the attorney of record, I am empowered to act on behalf of the assignee and, in accordance with 37 C.F.R. § 1.321(b)(iv), to sign this terminal disclaimer.

Certificate Under 37 C.F.R. §3.73(b)

Your petitioner, NeoRx Corporation, certifies that they are the owner of the entire right, title and interest in and to the above-identified patent application (Serial No. 09/590,002) and in and to U.S. Patent Application Serial No. 09/910,387. Your petitioner owns the entire right, title, and interest of these applications by nature of the assignments executed and filed for both of these applications. The above-identified patent application (Serial No. 09/590,002) and application Serial No. 09/910,387 are both continuation applications of Serial No. 08/546,794, filed on October 23, 1995, now U.S. Patent No. 6,171,609. The assignment for Serial No. 08/546,794 was recorded on May 29, 1997 on Reel 8532, Frames 0953-0955, with the United States Patent and Trademark Office.

The undersigned representative of the assignee has reviewed the evidentiary documents of title and certifies that to the best of assignee's knowledge and belief, title is in the assignee, NeoRx Corporation, seeking to take the action set forth in this disclaimer.

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Terminal Disclaimer

Your petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified patent application (Serial No. 09/590,002), which would extend beyond the expiration date of the full statutory term, as presently shortened by any terminal disclaimers, of U.S. patent application Serial No. 09/910,387. Petitioner hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to U.S. patent application Serial No. 09/910,387 and any patent granted thereon and the legal title of the above-identified application (Serial No. 09/590,002) and any patent granted thereon remain common, this agreement to run with any patent granted on the above-identified application (Serial No. 09/590,002) and to be binding upon the grantee, its successors and assigns.

Limitations on the Disclaimer

Your petitioner does not disclaim any terminal part of any patent granted on the above-identified application (Serial No. 09/590,002) prior to the expiration date of the full statutory term as presently shortened by any terminal disclaimer of any patent granted on U.S. Patent Application Serial No. 09/910,387 in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration date of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title as stated hereinabove.

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Fee Status

A check in the amount of \$110.00, which is required under 37 C.F.R. §1.20(d) to file a statutory disclaimer, is enclosed herewith. The Commissioner of Patents and Trademarks is hereby authorized to charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

LAWRENCE L. KUNZ ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938

Minneapolis, MN 55402

(612) 373-6959

Date September 5, 2002 By Janet E. Embretson
Janet E. Embretson
Reg. No. 39,665

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 5th day of September, 2002.

Dawn M. Poole
Name

Dawn M. Poole
Signature

DATE: 9-24-02

APPL. S.N.: 091 596 002

TO EXAMINER: S. Barts

ART UNIT: 1621

MOSE MONTGOMERY, ROOM 11E18

MAILROOM DATE 9-11-02

AFTER FINAL YES ☐ NO ☒ NUMBER OF T.D(S). FILED 1

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this Informal memo in your next office action to notify applicant about the T.D. If you disagree with my analysis or have questions at all about the acceptability of the T.D., please see me or our Special Program Examiner. THIS MEMO IS AN INFORMAL, INTERNAL MEMO ONLY. IT ~~MUST NOT BE~~ MAILED TO APPLICANT, NOR SHOULD A COPY BE LEFT IN FILE.

☐ The T.D. is PROPER and has been recorded. (See 14.23).

☒ The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).

☐ The recording fee of \$ _____ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)

☐ Application Examiner has not processed T.D. fee. (See fee authorization).

☐ The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).

☐ The T.D. lacks the enforceable only during the common ownership clause needed to overcome a double patenting rejection, Rule 321(c). (See 14.27, 14.27.01).

☐ It is directed to a particular claims(s), which is not acceptable since "the disclaimer must be of a terminal portion of the term of the entire patent to be granted". MPEP 1490. (See 14.26, 14.26.02).

☐ The person who signed the terminal disclaimer:

☐ has failed to state his/her capacity to sign for the business entity. (See 14.28).

☐ is not recognized as an officer of the assignee. (See 14.29 and possibly 14.29.01).

☐ No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). **NOTE:** This documentary evidence or the specifying of the reel and frame may be found in the T.D. or in a separate paper submitted by applicant. (See 14.30).

☐ No "statement" specifying that the evidentiary documents have been reviewed and that, to the best of the assignee's knowledge and belief the title is in the assignee seeking to take action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).

☐ The T.D. is not signed. (See 14.26, 14.26.3). or 14.26.03 if TD is not signed by all the owners.

☐ Attorney not of record in oath/decl. or a separate paper filed appointing a new or associate attorney. (See 14.29.01).

☒ The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).

☐ The serial number of this application (or the number of the patent in reexam or reissue case(s) being disclaimed is missing or incorrect. (See 14.26, 14.26.04 or 14.26.05).

☐ The period disclaimed is incorrect or not specified. (See 14.27, 14.27.2 or 14.27.3)(For Samples 14.27.04 and 14.27.05)

☐ Other: _____

☐ Suggestion to request refund of \$ _____. (See 14.35, 14.36).

☐ **EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALTIES MAY BE FAXED IN TO THE GROUP**

FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:

☐ Sample of a TD over a pending application and assignee Certificate (See 14.37).

☐ Sample of a TD over a prior patent and assignee Certificate (See 14.38).

☐ Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39)